

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RYAN NOAH SHAPIRO,
12 James Way
Cambridge, MA 02141

PLAINTIFF

VS.

DEPARTMENT OF JUSTICE,
950 Pennsylvania Ave., NW
Washington, DC 20530

DEFENDANT

)
)
) Judge _____
) Civil Action No. _____

COMPLAINT

THE PARTIES

1. Plaintiff Ryan Noah Shapiro is a citizen of Massachusetts residing at 12 James Way, Cambridge, MA 02141.
2. Plaintiff is a Ph.D. candidate in the Department of Science, Technology & Society at the Massachusetts Institute of Technology. Plaintiff's research focuses on disputes over animals and national security from the late nineteenth century to the present. A core focus of Plaintiff's research is the substantial role played by the FBI in conflicts over animal use and protection. In particular, Plaintiff's research explores the nature and evolution of FBI understanding and handling of the animal rights and animal protection movements from the Cold War era to the present. To this end, numerous leading animal rights activists from the 1970's through today have signed privacy waivers allowing Plaintiff to request their FBI records through the Freedom of Information Act and Privacy Act.

3. Plaintiff's research dovetails with that of scholars and journalists analyzing today's "Green Scare." As defined by award-winning journalist and author Will Potter, the Green Scare is the ongoing "disproportionate, heavy-handed government crackdown on the animal rights and environmental movements, and the reckless use of the word 'terrorism'" in the process. *See* <http://www.greenisthenewred.com/blog/green-scare>. Supporting this understanding is the FBI's 2005 designation of the animal rights and environmental movements as the leading domestic terror threats despite the fact that neither movement has ever physically injured a single person in the movements' decades of existence in the United States. *See* <http://www.cnn.com/2005/US/08/24/schuster.column/index.html>. Likewise, the FBI-supported 2006 passage of the Animal Enterprise Terrorism Act (AETA) has been widely condemned as a pernicious infringement upon protected speech and an effort to employ the rhetoric and apparatus of national security to marginalize animal protectionists as threats to American security. The New York-based Center for Constitutional Rights filed a federal lawsuit this past December in Boston challenging the constitutionality of the AETA. *See* <http://www.theatlantic.com/national/archive/2011/12/trust-us-legislation-when-protest-becomes-an-act-of-terror/250580>.

4. Defendant Department of Justice (DOJ) is an agency of the United States.

5. The Federal Bureau of Investigation (FBI) is a component of the DOJ.

The FBI has possession, custody and control of the records Plaintiff seeks.

JURISDICTION AND VENUE

6. This action arises under the Freedom of Information Act ("FOIA"), 5 USC § 552.

7. This Court has jurisdiction over the parties and subject matter pursuant to 5 USC § 552(a)(4)(B).

8. Venue is proper in this district pursuant to 5 USC § 552(a)(4)(B).

STATEMENT OF FACTS

BACKGROUND

9. Founded in the early 1980's and still active today, Los Angeles-based Last Chance for Animals (LCA) is a seminal American animal rights organization. Basing their protest tactics and strategies on the writings of Martin Luther King, Jr. and Mahatmas Gandhi, LCA pioneered the use of nonviolent civil disobedience to advocate for the rights of animals. LCA campaigned tirelessly against animal experimentation and pet theft for sale to animal experimentation laboratories. In no small part due to LCA's high profile campaigns against animal experimentation at UCLA and Cedars-Sinai Medical Center, in the late 1980's LCA was one of the first animal rights groups to be the subject of intensive investigation by the FBI.

10. The individuals for whose records Plaintiff has here filed suit were or are all leading activists affiliated with LCA or the broader California animal rights movement of the mid- to late-1980's and early 1990's. The Animal Liberation Front Supporters Group (ALFSG) was for a time closely affiliated with LCA. During that time, Linda "Margo" T. Tannenbaum served as spokesperson for both groups. The ALFSG was an aboveground animal rights organization that functioned as a liaison between the Animal Liberation Front (ALF) and the media, as well as promoted aboveground support for the ALF.

THE LCA REQUESTS

11. On or about October 22, 2010, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all information pertaining to the organization Last Chance for Animals (LCA).”

12. Although Plaintiff never received an acknowledgment letter regarding the FOIA/PA request described in the previous paragraph, he did receive a response from the FBI dated November 3, 2010 regarding the FOIA/PA request described in the previous paragraph (with the tracking number 1156519-000), stating that the FBI was not able to locate any responsive records.

13. On July 26, 2011, Plaintiff sent a FOIA/PA request to the FBI via United States Postal Service Priority mail, postage prepaid, delivery confirmation (0310 2010 0002 0397 0747) requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the California-based animal rights organization Last Chance for Animals (LCA) (aka LCFA).”

14. Based on information from the United States Postal Service, Plaintiff’s FOIA/PA request described in the previous paragraph arrived at the FBI on July 28, 2011. In a letter sent to Plaintiff dated September 28, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1156519-001.

15. The FBI’s response to Plaintiff’s FOIA/PA request (1156519-001) was due twenty working days after the FBI received it on July 28, 2011, which would have been August 25, 2011.

16. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1156519-001) with a determination as to whether the FBI will comply with the request.

17. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1156519-001) because the FBI has failed to comply with the statutory time limit.

THE CHRIS DEROSE REQUEST

18. On June 7, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Chris DeRose[.]” The request included a privacy waiver signed by Chris DeRose authorizing disclosure of responsive records to Plaintiff.

19. In a letter sent to Plaintiff dated June 10, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1167816-000.

20. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1167816-000), the latest that the FBI could have received the request was on June 10, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

21. The FBI’s response to Plaintiff’s FOIA/PA request (1167816-000) was due, at the latest, twenty working days after June 10, 2011, which would have been July 11, 2011.

22. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1167816-000) with a determination as to whether the FBI will comply with the request.

23. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1167816-000) because the FBI has failed to comply with the statutory time limit.

THE JACK D. CARONE REQUEST

24. On June 7, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Jack D. Carone[.]” The request included a privacy waiver signed by Jack D. Carone authorizing disclosure of responsive records to Plaintiff.

25. In a letter sent to Plaintiff dated June 15, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1167824-000.

26. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1167824-000), the latest that the FBI could have received the request was on June 15, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

27. The FBI’s response to Plaintiff’s FOIA/PA request (1167824-000) was due, at the latest, twenty working days after June 15, 2011, which would have been July 14, 2011.

28. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1167824-000) with a determination as to whether the FBI will comply with the request.

29. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1167824-000) because the FBI has failed to comply with the statutory time limit.

THE LINDA T. TANNENBAUM REQUEST

30. On June 7, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Linda (aka Margo) T. Tannenbaum[.]” The request included a privacy waiver signed by Linda T. Tannenbaum authorizing disclosure of responsive records to Plaintiff.

31. In a letter sent to Plaintiff dated June 13, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1167840-000.

32. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1167840-000), the latest that the FBI could have received the request was on June 13, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

33. The FBI’s response to Plaintiff’s FOIA/PA request (1167840-000) was due, at the latest, twenty working days after June 13, 2011, which would have been July 12, 2011.

34. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1167840-000) with a determination as to whether the FBI will comply with the request.

35. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1167840-000) because the FBI has failed to comply with the statutory time limit.

THE CRESCENT VELLUCCI REQUEST

36. On June 7, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Crescent Vellucci[.]” The request included a privacy waiver signed by Crescent Vellucci authorizing disclosure of responsive records to Plaintiff.

37. In a letter sent to Plaintiff dated June 30, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1168703-000.

38. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1168703-000), the latest that the FBI could have received the request was on June 30, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

39. The FBI’s response to Plaintiff’s FOIA/PA request (1168703-000) was due, at the latest, twenty working days after June 30, 2011, which would have been July 29, 2011.

40. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1168703-000) with a determination as to whether the FBI will comply with the request.

41. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1168703-000) because the FBI has failed to comply with the statutory time limit.

THE JONATHAN CHRISTOPHER MARK PAUL REQUEST

42. On June 7, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Jonathan Christopher Mark Paul[.]” The request included a privacy waiver signed by Jonathan Christopher Mark Paul authorizing disclosure of responsive records to Plaintiff.

43. In a letter sent to Plaintiff dated June 14, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1167949-000.

44. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1167949-000), the latest that the FBI could have received the request was on June 14, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

45. The FBI’s response to Plaintiff’s FOIA/PA request (1167949-000) was due, at the latest, twenty working days after June 14, 2011, which would have been July 13, 2011.

46. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1167949-000) with a determination as to whether the FBI will comply with the request.

47. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1167949-000) because the FBI has failed to comply with the statutory time limit.

THE LESLIE STEWART REQUEST

48. On June 7, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Dr. Leslie Stewart[.]” The request included a privacy waiver signed by Leslie Stewart authorizing disclosure of responsive records to Plaintiff.

49. In a letter sent to Plaintiff dated June 17, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1168146-000.

50. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1168146-000), the latest that the FBI could have received the request was on June 17, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

51. The FBI’s response to Plaintiff’s FOIA/PA request (1168146-000) was due, at the latest, twenty working days after June 17, 2011, which would have been July 18, 2011.

52. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1168146-000) with a determination as to whether the FBI will comply with the request.

53. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1168146-000) because the FBI has failed to comply with the statutory time limit.

THE SHEILA LARACY REQUEST

54. On June 7, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Sheila Laracy (aka Sheila Vellucci)[.]” The request included a privacy waiver signed by Sheila Laracy authorizing disclosure of responsive records to Plaintiff.

55. In a letter sent to Plaintiff dated June 14, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1167894-000.

56. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1167894-000), the latest that the FBI could have received the request was on June 14, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

57. The FBI’s response to Plaintiff’s FOIA/PA request (1167894-000) was due, at the latest, twenty working days after June 14, 2011, which would have been July 13, 2011.

58. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1167894-000) with a determination as to whether the FBI will comply with the request.

59. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1167894-000) because the FBI has failed to comply with the statutory time limit.

THE HENRY HUTTO REQUEST

60. On June 9, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Henry Hutto[.]” The request included a privacy waiver signed by Henry Hutto authorizing disclosure of responsive records to Plaintiff.

61. In a letter sent to Plaintiff dated July 16, 2011 (which presumably should have been June 16, 2011), the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1168089-000.

62. Although Plaintiff does not know the exact date that the FBI received his FOIA/PA request (1168089-000), the latest that the FBI could have received the request was on June 16, 2011, the date of the letter in which FBI acknowledged receipt of the FOIA/PA request.

63. The FBI’s response to Plaintiff’s FOIA/PA request (1168089-000) was due, at the latest, twenty working days after June 16, 2011, which would have been July 15, 2011.

64. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1168089-000) with a determination as to whether the FBI will comply with the request.

65. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1168089-000) because the FBI has failed to comply with the statutory time limit.

THE AARON GLENN LEIDER REQUEST

66. On June 29, 2011, Plaintiff sent a FOIA/PA request to the FBI via United States Postal Service Priority mail, postage prepaid, delivery confirmation (0310 2010 0002 0396 3497) requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the living person Aaron Glenn Leider[.]” The request included a privacy waiver signed by Aaron Glenn Leider authorizing disclosure of responsive records to Plaintiff.

67. Based on information from the United States Postal Service, Plaintiff’s FOIA/PA request described in the previous paragraph arrived at the FBI on July 1, 2011. In a letter sent to Plaintiff dated July 13, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1169540-000.

68. The FBI’s response to Plaintiff’s FOIA/PA request (1169540-000) was due twenty working days after the FBI received it on July 1, 2011, which would have been August 1, 2011.

69. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1169540-000) with a determination as to whether the FBI will comply with the request.

70. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1169540-000) because the FBI has failed to comply with the statutory time limit.

THE ALFSG REQUESTS

71. On June 9, 2011, Plaintiff sent a FOIA/PA request to the FBI via First Class mail requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the organization Animal Liberation Front Support Group (ALFSG), (aka ALF SG), (aka Animal Liberation Front Supporters Group).” Plaintiff explicitly requested both main file and cross-reference searches.

72. Although Plaintiff never received an acknowledgment letter regarding the FOIA/PA request described in the previous paragraph, he did receive a response from the FBI dated June 16, 2011 regarding the FOIA/PA request described in the previous paragraph (with the tracking number 1168026-000), stating that the FBI was “unable to identify responsive main files.”

73. The FBI possesses, at a minimum, dozens of pages of records responsive to Plaintiff’s FOIA/PA request (1168026-000), but did not locate them due to its failure to perform a cross-reference search.

74. On August 10, 2011, Plaintiff sent a FOIA/PA request to the FBI via United States Postal Service Priority mail, postage prepaid, delivery confirmation (0310

2010 0002 0397 8637) requesting a copy of “any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to the animal rights organization Animal Liberation Front Support Group (ALFSG), (aka ALF SG), (aka Animal Liberation Front Supporters Group).”

75. Based on information from the United States Postal Service, Plaintiff’s FOIA/PA request described in the previous paragraph arrived at the FBI on August 12, 2011. In a letter sent to Plaintiff dated September 26, 2011, the FBI acknowledged receipt of Plaintiff’s FOIA/PA request described in the previous paragraph and assigned it tracking number 1168026-001.

76. The FBI’s response to Plaintiff’s FOIA/PA request (1168026-001) was due twenty working days after the FBI received it on August 12, 2011, which would have been September 12, 2011.

77. As of the filing of this Complaint, Plaintiff has not received a response to his FOIA/PA request (1168026-001) with a determination as to whether the FBI will comply with the request.

78. Under 5 USC § 552(a)(6)(C)(i), Plaintiff is deemed to have exhausted his administrative remedies with regard to his FOIA/PA request (1168026-001) because the FBI has failed to comply with the statutory time limit.

COUNT I:
VIOLATION OF FOIA

79. This Count realleges and incorporates by reference all of the preceding paragraphs.

80. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding LCA (tracking number 1156519-001).

81. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Aaron Glenn Leider (tracking number 1169540-000).

82. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Chris DeRose (tracking number 1167816-000).

83. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Jack D. Carone (tracking number 1167824-000).

84. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Linda T. Tannenbaum (tracking number 1167840-000).

85. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Crescent Vellucci (tracking number 1168703-000).

86. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Jonathan Christopher Mark Paul (tracking number 1167949-000).

87. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Leslie Stewart (tracking number 1168146-000).

88. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Sheila Laracy (tracking number 1167894-000).

89. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding Henry Hutto (tracking number 1168089-000).

90. Defendant has violated FOIA by failing to timely respond with a determination as to whether it will comply with Plaintiff's FOIA/PA request regarding ALFSG (tracking number 1168026-001).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- (1) Declare Defendant's failure to comply with FOIA to be unlawful;
- (2) Enjoin Defendant from continuing to withhold the records responsive to Plaintiff's FOIA/PA requests and otherwise order Defendant to produce the requested records without further delay;
- (3) Grant Plaintiff an award of attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 USC § 552(a)(4)(E)(i); and
- (4) Grant Plaintiff such other and further relief which the Court deems proper.

Respectfully Submitted,

/s/ Jeffrey Light

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